

REMARKS

This Amendment is in response to the Office Action dated December 29, 2005. Claims 43-45, 50, 51, 59, 61, 63, 65, and 68 have been amended, claims 46 and 58 have been cancelled without prejudice, and claims 70-94 have been added. Claims 1-37, 43-45, 50, 51, 59 and 61-94 are presently pending. No new matter has been added. A marked-up version of the claims (with strikethrough to indicate deletions and underlining to indicate additions) is included with this Amendment for the convenience of the Examiner to facilitate comparison of the presently pending claims with those previously presented.

Support for the claim amendments can be found throughout the specification and drawings. Support for amendments relating to the neck/projection of a coupling member can be found at, for example, Figures 1 and 2 and Col. 9, lines 6-24. Support for amendments relating to the resilient deformable material can be found at, for example, Figures 1 and 2; Col. 7, lines 47-64; Col. 11, line 60 to Col. 12, line 29; and Col. 15, line 66 - Col 16, line 7. Support for amendments relating to the sockets can be found at, for example, Figures 1-3; Col. 7, lines 40-47; and Col. 11, line 60 to Col. 12, line 29. Support for amendments regarding the arm sections can be found at, for example, Figures 1-3; Col. 10, lines 61-66; and Col. 17, lines 45-54. Support for amendments regarding the disc-shaped base can be found at, for example, Figures 1 and 2 and Col. 11, lines 60-64. It will be understood that the cited passages and Figures are merely exemplary and that additional support may be found in other portions of the specification, claims, and drawings.

Claim Objections

Claims 64-66 were objected to for lack of underlining. Claims 64-69 have been underlined according to 37 CFR 1.173(b)(2). The Applicant respectfully requests withdrawal of the objection to these claims.

Recapture

Claims 43-46, 50, 51, 58, 59, 61-63 and 67-69 are rejected under 35 U.S.C. 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. The Applicant traverses this rejection.

As indicated in the previous response, the Applicant has incorporated elements from patent application claims 40 and 45. During the original prosecution, claims 40 and 45 were indicated as being allowable if rewritten in independent form. Claims 40 and 45 were then rewritten as patent application claims 74 and 75 and issued as patent claims 30 and 35.

Original patent application claim 40 reads as follows:

40. The mounting device according to Claim 38 wherein the base takes the form of a second coupling member having a substantially smooth part spherical outer peripheral surface thereon, the second coupling member is also compressible radially thereof at the outer peripheral surface thereof, and the mounting device further comprises means forming a pair of operatively opposing second sockets in the faces of the respective arm sections which have substantially smooth part spherical surfaces at the inner peripheries thereof that are rotatably engageable with the second coupling member at the outer peripheral surface thereof in the respective positions of the bifurcated arm assembly lying between the third and first positions thereof inclusive, and which progressively seize the second coupling member by compressing and deforming the outer peripheral surface thereof to interlock the bifurcated arm assembly with the second coupling member when the pair of arm sections is reciprocated in relation to one another in the direction of the second position of the bifurcated arm assembly from the first position thereof.

Original patent application claim 45 reads as follows:

45. The mounting device according to Claim 38 wherein the first coupling member having a reduced diameter neck at a side thereof opposed to the part spherical outer peripheral surface thereof, and the first sockets having rims formed thereabout in the faces of the respective arm sections, and indentations in the respective rims thereof at the plane of the line of juncture, which are greater in width than the neck so that the bifurcated arm assembly can be rotated about the locus of the first coupling member to angular orientations in which the line of juncture extends at right angles to the neck of the first coupling member.

In the present application, independent claims 43, 50, 59, 61, 63, and 70 include, in broadened form, the elements recited in patent application claim 45. New independent claims 91 and 94 include, in broadened form, the elements recited in patent application claim 40.

The Office Action rejected the Applicant's arguments in the previous amendment regarding the lack of recapture because "it was determined that various limitations [from original patent application claim 45] have been selectively omitted from the independent claims...." The Office Action has applied an incorrect standard for recapture. There is no requirement that all of the elements from original patent application claims 40 or 45 be included verbatim in the present reissue claims.

M.P.E.P. §1412.02 discusses recapture. In particular, M.P.E.P. §1412.02(I)(C)(2)(d) is directed to situation presented by the present claims which include, in broadened form, the elements used to overcome an art rejection. This section of the M.P.E.P. makes clear the standard related to "Reissue Claims Broader in Scope in Area Directed to Amendment/Argument Made to Overcome Art Rejection in Original Prosecution: but Reissue Claims Retain, in Broadened Form, the Limitation(s) Argued/Added to Overcome Art Rejection in Original Prosecution:"

Assume the combination AB was originally claimed in the application, and was amended in reply to an art rejection to add element C and thus provide the combination ABC (after which the patent issued). A reissue application is then filed, and the reissue application claims are directed to the combination ABC_{broadened}. The ABC_{broadened} claims are narrowed in scope when compared with the canceled claim subject matter AB, because of the addition of C_{broadened}. Thus, the claims retain, in broadened form, the limitation argued/added to overcome art rejection in original prosecution. There is no recapture, since ABC_{broadened} is narrower than canceled claim subject matter AB in an area related to the surrender. This is so, because it was element C that was added in the application to overcome the art.
(§1412.02(I)(C)(2)(d), emphasis in original)

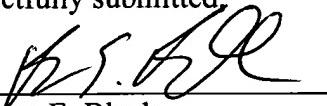
As indicated above, present independent claims 43, 50, 59, 61, 63, 70, 91, and 94 include the elements of original claims 40 or 45 (which were rewritten in independent form and issued as claims 30 and 35) in broadened form. These elements of claims 40 and 45 were used to overcome a prior art rejection. According to the proper standard, as described above, there is no recapture

because the present claims include a broadened form of the elements of claims 40 or 45 which elements were used to overcome the prior art rejections. Accordingly, the Applicant submits that the present claims are allowable. The Applicant respectfully requests withdrawal of this rejection of claims 43-45, 50, 51, 58, 59, 61, 63 and 67-69.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Dated: March 29, 2006

Respectfully submitted,

By 

Bruce E. Black
Registration No.: 41,622
DARBY & DARBY P.C.
P.O. Box 5257
New York, New York 10150-5257
(206) 262-8900
(212) 527-7701 (Fax)
Attorneys/Agents For Applicant

APPENDIX

1. (original) A mounting device for interposing along a line of juncture between a pair of relatively movable and relatively stationary objects, to support the relatively movable object on the relatively stationary object at a selected angular orientation of the line of juncture with respect to one of the objects, comprising:

means for forming a first coupling member on a first of the objects and a base on a second of the objects at spaced first and second loci, respectively, adjacent opposite ends of the line of juncture,

a split arm assembly comprising a pair of relatively rigid arm sections which are adapted to be operatively juxtaposed to one another along the line of juncture between the spaced loci of the first coupling member and the base, and have pairs of corresponding first and second end portions thereof which are operatively opposed to one another across a plane coincident with the line of juncture, so as to be disposed adjacent the first coupling member and the base, respectively,

clamping means for squeezing the pair of arm sections together relatively crosswise the plane of the line of juncture,

means for producing a differential in the reaction of the respective pairs of first and second end portions of the arm sections to the squeezing action of the clamping means, so that when squeezed together, the pair of arm sections forms a bifurcated arm assembly that in a first position thereof, has its apex at the first locus of the first coupling member and is loosely engaged about the base at the second end portions thereof,

means forming a pair of operatively opposing first sockets in the first end portions of the respective arm sections having substantially smooth part spherical surfaces at the inner peripheries thereof which substantially coincide with a circle of revolution that has its center at the first locus of the first coupling member when the bifurcated arm assembly is engaged in the first position thereof about the first coupling member,

the first coupling member having a substantially smooth part spherical surface thereon which forms the outer periphery thereof and substantially coincides with the circle of revolution, so